

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

VS.

CIVIL ACTION NO. 4:05CV33LN

IKE BROWN, Individually and in his official capacities as Chairman of Noxubee County Democratic Executive Committee and Superintendent of Democratic Primary Elections; NOXUBEE COUNTY DEMOCRATIC EXECUTIVE COMMITTEE; CARL MICKENS, Individually and in his official capacities as Circuit Clerk of Noxubee County, Superintendent of Elections, Administrator of Absentee Ballots, and Registrar of Voters; NOXUBEE COUNTY ELECTION COMMISSION and NOXUBEE COUNTY, MISSISSIPPI

DEFENDANTS

ORDER

This matter came before the court on the Plaintiff's Motion to Strike Defendants' Ike Brown's and the Noxubee County Democratic Executive Committee's Designation of Expert Witness. The Motion is based upon service of an expert designation that the Defendants admit is incomplete, in that it does not provide the opinion of the expert. The Defendants argue that the delay in discovery in this matter has prevented their expert from forming an opinion, which the expert asserts will be not be available until August 31.

This matter is set for trial on October 16, and the pretrial conference is scheduled to occur on September 11. The Defendants' request to delay providing their expert report until less than two weeks before the pretrial conference is untenable. Their original expert designation deadline (April 16, 2006) was set on July 20, 2005, and the Defendants have had ample time since then to gather sufficient information for the expert to form an opinion about this case, even if the opinion had to

be supplemented as to minor details following the completion of discovery. The court has already granted one extension of the designation deadline and moved it to May 20, noting that further delay was not justified by the fact that depositions were still being taken. The court further directed the parties to seek extensions of deadlines from the court, rather than informally extending them. The Defendants did not seek a further extension from the court, but, on May 22, served an incomplete designation. Under these circumstances, the court is of the opinion that the Motion to Strike should be granted.

The undersigned is mindful of the recent Clerk's Entry of Default in this matter and is aware that the Defendants have moved to set it aside. If that Motion is denied, then the issue of the Defendants' expert is moot. If the Motion is granted, the District Judge may entertain a request to move the trial date of this case. Should that occur, the court would consider a motion to permit an out of time designation of the Defendant's expert witness.

IT IS, THEREFORE, ORDERED that the Plaintiff's Motion to Strike Defendants' Ike Brown's and the Noxubee County Democratic Executive Committee's Designation of Expert Witness is hereby **granted**.

IT IS SO ORDERED, this the 10th day of July, 2006.

S/John M. Roper
UNITED STATES MAGISTRATE JUDGE